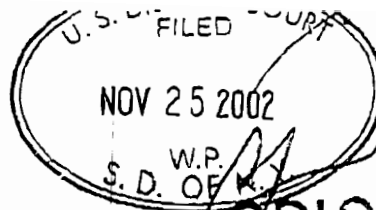


ORIGINAL

NO. 525

P. 4/15

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA :
and BARBARA KING, :

Plaintiffs, :

02 Civ. 5241 (WCC)

v. :

CONSENT DECREE

WESTWATER COMMONS CORP., :

Defendant. :
-----x

WHEREAS, on July 9, 2002, the United States of America ("United States" or the "Government") filed a Complaint alleging that Westwater Commons Corp. discriminated against Barbara King ("King") and her minor children on the basis of familial status in violation of the Fair Housing Act, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq. ("the Act"); and

WHEREAS, on July 25, 2002, the Government, King, and defendant Westwater Commons Corp., executed a proposed stipulation and order granting King permission to intervene; and

WHEREAS, on August 6, 2002, the Court "So Ordered" the Stipulation and Order granting King's intervention; and

WHEREAS, the parties have agreed that to avoid protracted, unnecessary, and costly litigation, the controversy should be resolved without further litigation; and

WHEREAS, defendant does not admit any wrongdoing or liability and plaintiffs continue to aver the allegations in their complaints; and

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USDC SD NY WP

WHEREAS, the parties have agreed that settlement of these matters without further litigation is in the public interest and that the entry of this Consent Decree is the most appropriate means of resolving these matters; and

WHEREAS, the parties have consented to the entry of this Consent Decree;

NOW THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that:

1. The Complaint shall be dismissed with prejudice upon the following terms and conditions.

I. TERM AND DEFINITIONS

2. The term of this Consent Decree shall be three years from the date of entry. Expiration of this Consent Decree shall not relieve the Defendant of any obligation otherwise imposed by law.

3. For purposes of this Consent Decree, "Dwelling" shall have the same meaning as that provided by 42 U.S.C. § 3602(b), namely "any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof."

42 U.S.C. § 3602(b).

II. INJUNCTION

4. Defendant, its agents, and/or successors, and all persons in active concert or participation with any of them shall not violate the Fair Housing Act, 42 U.S.C. § 3601, et seq. with respect to any aspect of the renting, leasing or sale of a Dwelling, because of that person's familial status.

5. Defendant, its agents, and/or successors, and all persons in active concert or participation with any of them shall not discriminate against any person in the terms, conditions or privileges or rental of a Dwelling, or in the provision of services or facilities in connection therewith, because of that person's familial status.

6. Defendant, its agents, and/or successors, and all persons in active concert or participation with any of them shall not refuse to rent or accept the application to purchase a Dwelling, refuse or fail to provide or offer information about a Dwelling, or otherwise make unavailable a Dwelling to a person because of that person's familial status.

7. Defendant agrees not to request or require applicants for the rental or purchase of a Dwelling to cause minor children who are or who may be living with them to be interviewed or otherwise involved in the application process.

8. Defendant further agrees not to inquire as to:
(a) whether an applicant intends to have children; (b) whether an

applicant intends to have children living in the Dwelling; or
(c) the age of the children of a prospective applicant.

Defendant, however, may include in any application its lawfully established occupancy standards that are consistent with the Act and any other regulations or guidelines issued by the United States Department of Housing and Urban Development ("HUD").

Defendant may also require the applicant to certify that his or her intended occupancy complies with these standards.

9. Defendant, its agents, and/or successors, and all persons in active concert or participation with any of them shall not make, print, publish any notice, statement or advertisement with respect to the rental or purchase of a Dwelling that indicates any preference, limitation or discrimination based on familial status.

10. Defendant, its agents, and/or successors, and all persons in active concert or participation with any of them shall not issue, promulgate, state or enforce in any way any oral or written limits on the maximum number of occupants who can occupy a Dwelling that are inconsistent with the Act and any other regulations or guidelines issued by HUD.

III. MONETARY RELIEF

11. Defendant shall pay to King the sum of one hundred two thousand five hundred dollars (\$102,500), without interests or costs, by delivery of two checks to counsel for King, made

payable to "Law Office of Craig Gurian, P.C., Attorney Trust Account" on behalf of Barbara King, as described further in paragraph 12.

12. After counsel for the United States has provided written notice to Defendant's counsel that the Consent Decree has been entered by the Court, Defendant shall pay the sum set forth in paragraph 11 in two parts. The first payment shall be in the amount of \$67,500, shall be made either by check from Westwater Common Corp.'s insurance carrier or by a certified or bank check from Westwater Commons Corp., and shall be paid after December 9, 2002 and before December 16, 2002. The second payment shall be in the amount of \$35,000, shall be made by a certified or bank check from Westwater Commons Corp., and shall be paid after January 6, 2003 and before January 13, 2003.

13. In the event that Defendant shall fail or refuse to make the payments required by paragraphs 11 and 12 of this Consent Decree, or any portion of them, the United States or plaintiff-intervener may (a) seek to execute upon the judgment in the manner provided by the Federal Rules of Civil Procedure, or (b) apply to the Court for an order vacating the Consent Decree and entering judgment as to liability. The Court shall vacate the Consent Decree and enter judgment as to liability upon the United States' or King's demonstration that Defendant defaulted in any of its payment obligations set forth herein. In such event, the action shall then proceed only as to determine

damages.

IV. REPORTING

14. Twelve (12) months after the entry of this Consent Decree, and thereafter every year for a period of three years after entry of this Consent Decree, Defendant shall deliver to counsel for the United States (at the address below) a signed affidavit describing compliance with the terms of this Consent Decree.

15. Defendant shall also provide any and all applications for Defendant's approval to sell or rent a Dwelling during the relevant 12-month period, identifying in each case the subject apartment, the outcome of the application, and the name and address of the proposed seller, purchaser, and responsible leasing or sales agent.

V. NOTICE TO THE PUBLIC

16. Defendant will take the following steps to notify the public of their nondiscriminatory policies:

A. Post and maintain in any of Defendant's offices where there is rental or purchase activity and/or personal contact with applicants for units, a HUD fair housing poster no smaller than 11 inches by 14 inches that indicates that all apartments are available for rent or sale on a nondiscriminatory basis. The poster shall be in compliance with regulations promulgated by HUD and described in 24 C.F.R. Part

110.

B. Include the words "Equal Housing Opportunity" or the fair housing logo as described in 24 C.F.R. Part 110 in all advertising conducted by Defendant in newspapers, telephone directories, radio, television or other media, and on all billboards, signs, pamphlets, brochures and other promotional literature. The words or logo should be prominently placed and easily legible or audible.

C. Include the following statement on all applications or forms utilized by Defendant:

Westwater Commons Corp. does not discriminate on the basis of race, color, religion, sex, handicap, national origin, or familial status.

VI. MANDATORY EDUCATION REQUIREMENT

17. Defendant and Defendant's agents with responsibilities for or oversight of the rental or purchase of Dwelling units, including Defendant's Board of Directors, shall attend a three-hour program of educational training concerning their responsibilities under federal, state, and local fair housing laws, regulations, or ordinances. Defendant must obtain HUD's prior approval of the program's curriculum and instructor by writing to counsel for the United States. Any expenses associated with this program shall be borne by Defendant. All persons attending such a program shall have their attendance certified in writing by the person conducting the educational

program.

VII. RECORD-KEEPING

18. Defendant shall, for three years following the entry of this Consent Decree, preserve all records which are the source of, or contain, any of the information pertinent to Defendant's obligations under this Consent Decree. Upon reasonable notice to counsel for Defendant, representatives of the United States shall be permitted to inspect and copy all pertinent records of Defendant at any and all reasonable times. The United States shall endeavor to minimize any inconvenience to Defendant from inspection of such records.

VIII. COMPLAINTS

19. Defendant, during the term of this Consent Decree, shall advise counsel for the United States in writing within thirty (30) days of receipt of any complaint, including administrative or legal complaints, against Defendant, or against any of Defendant's, majority shareholders, rental or purchase agents or residential rental or purchase properties, alleging housing discrimination. Such reports shall include the complaints and answers thereto.

IX. DISMISSAL AND ENFORCEMENT

20. This action shall be dismissed with prejudice and the case closed on the Court's docket, subject to reopening for three years from the date of entry of the Consent Decree for the purpose of implementing or enforcing the provisions of this Consent

Decree.

21. This Court shall retain jurisdiction of this action for at least three years from entry of the Consent Decree and for the purpose of adjudicating any disputes regarding the implementation or enforcement of the provisions of this Consent Decree.

22. At the end of this three-year period, the Consent Decree will expire, unless the United States petitions the Court to extend the term of the Consent Decree upon notice to the undersigned counsel for the Defendant, and the Court grants the relief.

23. Nothing contained in this Consent Decree shall be deemed to limit the Government's right, if any, to seek relief under the Fair Housing Act, or any other applicable statute or regulation on account of Defendant's violation of this Consent Decree.

24. Nothing contained in this Consent Decree shall be construed to relieve Defendant of its obligations to comply with any federal or state statute or regulation.

X. APPLICATION AND PARTIES BOUND

25. This Consent Decree applies to and is binding upon the United States, King, Defendant and its parent corporations, subsidiary corporations, majority shareholders, agents, and/or successors. The undersigned counsel for the Defendant and for

King certify that they are authorized by their clients to enter into and consent to the terms and conditions of the Consent Decree and to execute and legally bind their clients to it.

XI. INTEGRATION CLAUSE

26. The parties understand and agree that this Consent Decree contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

XII. EFFECTIVE DATE

27. This Consent Decree, and each of its terms and conditions, is subject to the approval of the Court, and shall become effective immediately upon such approval. In the event that the Court does not approve this Consent Decree, this Consent

Decree shall be null and void and of no force and effect.

AGREED TO:

Dated: New York, New York
November 22 2002

JAMES B. COMEY
United States Attorney for the
Southern District of New York
Attorney for Plaintiff United States
of America

By: 

RUSSELL M. YANKWITT (RMY-6487)
Assistant United States Attorney
100 Church Street 19th Floor
New York, New York 10007
Temp. Tel. No. (718) 422-5654
Temp. Fax No. (718) 422-1789

Dated: New York, New York
November ____, 2002

LAW OFFICE OF CRAIG GURIAN, P.C.
Attorney for Plaintiff-Intervener

By: 

CRAIG GURIAN (CG-6405)
26 Court Street, Suite 2805
Brooklyn, New York 11242
Tel. No. (718) 422-0066

Dated: New York, New York
November 22, 2002

HOEY, KING, TOKER & EPSTEIN
Attorney for Defendant

By: Kathleen M. McElroy
KATHLEEN M. MCELROY (KM-1738)
55 Water Street
New York, New York 10041
Tel. No. (212) 612-4200

SO ORDERED:

Dated: November 25, 2002

William C. Conner
WILLIAM C. CONNER
UNITED STATES DISTRICT JUDGE